

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
SOUTHERN DIVISION**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**v.**

**WALTER HOORNSTRA,**

**Defendant.**

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**Case No. 6:22-CR-03105-MDH**

**ORDER**

Before the Court is Defendant Walter Hoornstra's ("Defendant's") Motion for Leave to File Motion to Dismiss Out of Time. In accord with local rule 72.1, this matter was referred to the Magistrate Judge for initial review. The Magistrate prepared a Report and Recommendations in which he recommended the undersigned deny Defendant's Motion for Leave. This Court has carefully reviewed all briefing and the record generally.

As noted by the Magistrate Judge, Eighth Circuit precedent allows untimely pretrial motions only when a Defendant makes a showing of cause for delay and prejudice. *United States v. Fogg*, 922 F.3d 389, 391 (8th Cir. 2019) ("To show good cause, a party must show both cause and prejudice."). Defendant has failed to show cause for the nearly seven-month delay between the pretrial motion deadline set by the Magistrate Judge, September 19, 2022, and the filing of Defendant's present Motion on April 10, 2023. Defendant does not argue, for example, the Motion to Dismiss is based on newly discovered evidence previously unavailable. Further, Defendant has failed to argue, in anything beyond a conclusory fashion, that Defendant will suffer prejudice should this Court deny Defendant's present Motion.

## **CONCLUSION**

It is **ORDERED** that the Report and Recommendation of the United States Magistrate Judge is **ADOPTED** and incorporated herein.

It is **FURTHER ORDERED** that Defendant's Motion for Leave to File Motion to Dismiss Out of Time is **DENIED**.

**IT IS SO ORDERED.**

Dated: May 24, 2023

/s/ Douglas Harpool  
**DOUGLAS HARPOOL**  
**United States District Judge**